CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Stephen DiFiore	Team: Squad #7	CCRB Case #: 201908421	☐ Force ☑ Abuse	☐ Discourt. ☐ O.L.	☐ U.S. ☐ Injury
Incident Date(s) Friday, 09/13/2019 7:00 PM	Location of Incident: 63rd Avenue between Bourton Street and Haring Street		Precinct: 112	18 Mo. SOL 3/13/2021	EO SOL 10/28/2021
Date/Time CV Reported Sun, 09/22/2019 8:11 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Sun, 09/22/2019 8:11 PM		

Complainant/Victim	Type	Home Address
███████	███	██████████
███████	███	██████████

Subject Officer(s)	Shield	TaxID	Command
1. POM James Vaccaro	03698	965583	112 PCT
2. POF Taylor Cumbo	02284	963939	112 PCT

Officer(s)	Allegation	Investigator Recommendation
A. POF Taylor Cumbo	Abuse: Police Officer Taylor Cumbo threatened to arrest § 87(2)(b)	████████
B. POM James Vaccaro	Abuse: Police Officer James Vaccaro threatened to arrest § 87(2)(b)	████████
C. POM James Vaccaro	Abuse: Police Officer James Vaccaro refused to provide his shield number to § 87(2)(b)	████████
§ 87(4-b), § 87(2)(g)	████████████	████████
§ 87(4-b), § 87(2)(g)	████████████	████████

<u>**Case Summary**</u>

On September 22, 2019, § 87(2)(b)   filed the following complaint through the CCRB on-line website. A short cell phone video depicting a threat of arrest was obtained for this case (Board Review 01).

On September 13, 2019, § 87(2)(b)   was involved in a motor vehicle collision. PO Taylor Cumbo and PO James Vaccaro of the 112th Precinct responded to the scene and called for a tow truck. Due to a dispute that § 87(2)(b)   had with the tow truck driver, § 87(2)(b) refused to give the tow truck driver the keys to his vehicle. PO Cumbo and PO Vaccaro both told § 87(2)(b)   that he could be arrested (**Allegations A and B: Abuse of Authority,** § 87(2)(g)   ). Shortly afterwards, § 87(2)(b)   s wife, § 87(2)(b)   arrived on scene and spoke with the officers. § 87(2)(b)   allegedly asked PO Vaccaro for his shield number, and PO Vaccaro allegedly replied, "Oh great. Now she wants our shield numbers" and did not provide his shield number (**Allegation C: Abuse of Authority,** § 87(2)(g)   ). § 87(4-b), § 87(2)(c)

<u>**Findings and Recommendations**</u>

<u>**Allegations (A) Abuse of Authority: Police Officer Taylor Cumbo threatened to arrest**</u> § 87(2)(b)

<u>**Allegations (B) Abuse of Authority: Police Officer James Vaccaro threatened to arrest**</u> § 87(2)(b)

§ 87(2)(b)   was in a motor vehicle collision on September 13, 2019 at around 7:20 p.m. on 63rd Avenue between Bourton Street and Haring Street. PO Taylor Cumbo and PO James Vaccaro of the 112th Precinct responded to the scene. PO Vaccaro said in his interview that the car was not safe to drive, but he did not describe any damage to the vehicle other than to the right corner panel (Board Review 02). PO Cumbo said in her interview that the airbags had been deployed, which meant that the car was not safe to drive under its own power (Board Review 03). In his CCRB interview, § 87(2)(b)   also said that the airbags in his car had been deployed (Board Review 04). According to the event summary from the incident, § 87(2)(b)   s vehicle, a black Honda, was smoking and leaking fluid (Board Review 05).

All parties had agreed that § 87(2)(b)   did not want the tow truck driver who responded to tow his car and refused to provide his keys to the driver. § 87(2)(b)   said in his interview that he saw the tow truck driver cause further damage to the other vehicle in the collision. PO Cumbo remembered this objection as well but said that the tow truck driver did not cause any further damage to the other vehicle. § 87(2)(b)   also asked if he could have a tow truck company tow his car at his own expense, but PO Vaccaro and PO Cumbo said that under the Directed Accident Response Program (DARP), the vehicle must be towed by an approved tow truck company.

According to § 87(2)(b)   PO Cumbo and PO Vaccaro threatened to arrest him while he was outside his vehicle, at which point he went into his car. While in his car, they continued to threaten to arrest him. According to PO Vaccaro, the officers told § 87(2)(b)   that he could have been arrested five times. According to PO Cumbo, she only told § 87(2)(b)   that he could be arrested once, which was when he was in his car, in addition to PO Vaccaro telling him he could be arrested.

Both officers agreed that the video provided by § 87(2)(b)   depicts the incident. At 00:17 in the recording, PO Vaccaro says, "Sir, you're gonna get arrested. You understand that," while § 87(2)(b)   is in his vehicle speaking to his lawyer over the phone. Both PO Cumbo and PO Vaccaro said that at this point, § 87(2)(b)   could have been arrested for obstructing

government administration. PO Cumbo said in her interview that she only informed §§ 87(2)(b) that he could have been arrested if he continued to refuse to get out of his vehicle but never actually threatened to arrest him.

According to the DMV, § 87(2)(b) s vehicle weighs 2600 pounds (Board Review 06).

Section 195.05 of the Penal Law states that "a person is guilty of obstructing governmental administration when he intentionally obstructs, impairs, or perverts the administration of law or other governmental function or attempts to prevent a public servant from performing an official function." (Board Review 07)

Section 20-158 of the NYC Administrative Code states that, "Any vehicle that has been involved in a vehicular accident and which cannot be safely driven under its own power which has not been removed or caused to be removed from the scene of an accident shall be removed by a tow truck of the towing company participating in the directed accident response program when such company has been directed to do so by the police department. No such vehicle, other than a vehicle that has a maximum gross vehicle weight of at least fifteen thousand pounds, may be removed by a tow operator chosen by the person in charge of such vehicle" (Board Review 08). This section is also consistent with Patrol Guide Procedure 217-09 regarding the Directed Accident Response Program (Board Review 09).

§ 87(2)(g)

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Allegation (C) Abuse of Authority: Police Officer James Vaccaro refused to provide his shield number to § 87(2)(b)

§ 87(2)(b) s wife, § 87(2)(b) arrived on scene at around 8 p.m. Upon arriving on scene, she spoke with PO Vaccaro and PO Cumbo. All parties agreed that the officers told her that her husband could be arrested if he did not leave the vehicle. According to her notarized statement, § 87(2)(b) allegedly asked PO Vaccaro for his shield number, at which point PO Vaccaro allegedly told PO Cumbo, "Oh great. Now she wants our shield number" (Board Review 10). § 87(2)(b) did not receive a shield number from PO Vaccaro.

§ 87(2)(b) did not see or hear this occur and only knew about it because § 87(2)(b) told him later. PO Cumbo and PO Vaccaro both remembered providing their shield numbers to § 87(2)(b) because he asked for them. PO Vaccaro did not remember § 87(2)(b) asking for his shield number and did not remember making the aforementioned statement to his partner. PO Cumbo similarly remembered providing her shield number to § 87(2)(b) but did not remember § 87(2)(b) asking PO Vaccaro for his shield number. PO Cumbo also said that PO Vaccaro might have mentioned to her that § 87(2)(b) asked him for his shield number but did not remember for sure. PO Cumbo did not remember PO Vaccaro making the aforementioned statement to her.

§ 87(2)(g)

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§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b) has been a party to one other CCRB complaint and has been named as a victim in two other allegations (Board Review 12):
  - ○ § 87(2)(b)
- This is the first complaint to which § 87(2)(b) has been a party.
- Police Officer James Vaccaro has been a member-of-service for two years and this is the first CCRB complaint to which he has been a subject.
- Police Officer Taylor Cumbo has been a member-of-service for two years and has been a subject in one other complaint and one allegation, which was not substantiated. ▓
  § 87(2)(g)

Mediation, Civil and Criminal Histories

- On September 27, 2019, this case was sent to mediation and on December 3, 2019, the case was returned to investigation § 87(2)(b), § 87(2)(g)

- § 87(2)(b)

Squad No.: _____

Investigator: _____   _____   _____
                     Signature   Print Title & Name   Date

Squad Leader: _____   _____   _____
                     Signature   Print Title & Name   Date

Reviewer: _____   _____   _____
                     Signature   Print Title & Name   Date